

**IN THE COMMERCIAL TAX TRIBUNAL,
UTTARAKHAND, HALDWANI**

PRESENT: HON'BLE MALIK MAZHAR SULTAN, H.J.S.

PRESIDENT

SHRI RAKESH VERMA ..

MEMBER

SECOND APPEAL. 105 OF 2025 (A.Y.2013-14, Tax Period: July 2013)

[Under Section 58(1)(VII) of the Value added tax Act, 2005]

M/s Naini Tissues Ltd., Kashipur

...Appellant / Dealer

Versus

Commissioner, Commercial Tax, Uttarakhand

...Respondent

For the Applicant: Shri Mayank Gupta, Ld. Advocate

For the Respondent: Smt. Hemlata Shukla, Deputy Commissioner (State Tax),
State Representative

JUDGMENT

Background

This second appeal has been filed by the dealer under Section 53 of the Uttarakhand Value Added Tax Act, 2005 (hereinafter referred to as "the Act"). The appeal challenges the order no 243 dated 08.05.2025 passed by the First Appellate Authority, by which the dealer's appeal was dismissed and the penalty imposed under Section 58(1)(vii) of the Act was confirmed.

The penalty proceedings relate to delay in depositing admitted tax for the tax period July 2013, which falls in the second quarter of the assessment year 2013-14.

s/d

s/d-04-04-26

Second App. No. 105/ 2025

(Rakesh Verma)

(Malik Mazhar Sultan)

Facts of the Case

The dealer is a registered manufacturing concern carrying on taxable business under the Act. For the tax period July 2013, the dealer admitted a tax liability of Rs. 32,90,686/-, which was required to be deposited on or before 25.08.2013.

However, the admitted tax was deposited after the due date, resulting in a delay of nine days. Due to this delay, the Assessing Authority initiated penalty proceedings under Section 58(1)(vii) of the Act and imposed a penalty at the rate of 10% of the admitted tax, amounting to Rs. 3,29,068/-, by order dated 17.12.2018.

The dealer had already deposited the entire admitted tax along with applicable interest before the penalty proceedings were initiated. The dealer challenged the penalty order before the First Appellate Authority, but the appeal was dismissed on the ground that no sufficient reason for the delay was proved.

Aggrieved by the said order, the dealer has filed the present second appeal.

Submissions of the Dealer

The dealer submitted that the delay in depositing the tax was neither deliberate nor intentional. According to the dealer, the delay occurred due to technical problems in the departmental online portal, which prevented timely payment.

It was further argued that the delay was only of nine days and that the entire tax along with interest had already been paid. There was no loss of revenue to the State. The dealer also pointed out that there was no previous history of default and that the dealer is not a habitual defaulter.

It was submitted that penalty under Section 58 is discretionary and not mandatory, and that it can be waived where reasonable cause for the delay exists.

s/d

Second App. No. 105/ 2025

(Rakesh Verma)

s/d-04-04-26

(Malik Mazhar Sultan)

Submissions of the Department

The Department argued that the due date for deposit of tax is clearly prescribed under the statute and that delay in deposit is an admitted fact.

It was contended that the Act authorises the imposition of penalty when admitted tax is not deposited within time. Mere payment of tax along with interest does not absolve the dealer from liability to penalty. The Department further submitted that the explanation given by the dealer regarding technical issues is not supported by any documentary evidence.

Issue for Determination

The principal issue that arises for consideration is:

Whether the delay of nine days in deposit of admitted tax for July 2013 was supported by "reasonable cause" so as to warrant waiver of penalty under Section 58(1)(vii) of the Act, and whether the dealer's explanation deserves acceptance?

Discussion

Statutory Framework

Section 58(1)(vii) of the Act empowers the authority to impose penalty where a dealer fails to deposit admitted tax within the prescribed time.

The provision is not automatic or mechanical. The use of the expression "has, without any reasonable cause failed-(a) to deposit the tax due under the Act, before furnishing the return or along with the return". It clearly indicates discretion, which must be exercised judiciously.

In *Hindustan Steel Ltd. v. State of Orissa* (1970) 25 STC 211 (SC), the Supreme Court held that penalty should not be imposed merely because it is lawful to do so. Ordinarily, penalty should not be imposed unless the party has acted

s/d

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deliberately or in conscious disregard of law. However, the judgment also clarifies that absence of intention alone does not automatically absolve the assessee, and the conduct and nature of default must be examined.

The dealer's main plea is that the delay occurred due to technical problems in the departmental online portal and therefore constituted "reasonable cause". The term "reasonable cause" is not defined in the Act, but courts have consistently held that reasonable cause must be real, genuine, and supported by credible evidence.

Reasonable cause must be bona fide, beyond the reasonable control of the assessee, and supported by contemporaneous material. It cannot be based on vague or unsubstantiated explanations.

In the present case, the dealer has merely stated that the portal was not functioning properly. However, no supporting evidence has been placed on record. There are no screenshots, error messages, system logs, complaints to the department or bank, or correspondence showing attempts to make payment before the due date.

In the absence of such material, the explanation remains vague and unverified. Accepting such unsupported pleas would make statutory compliance dependent on the subjective explanation of the dealer.

In the present case, the dealer has failed to place on record any error messages generated by the portal, screenshots or system logs, complaints lodged with the department, helpdesk, or bank, correspondence showing attempts to resolve the issue and any proof of repeated failed attempts prior to the due date. In the absence of such material, the plea remains bald, vague, and unverifiable.

The argument that the delay was only of nine days is not legally relevant. Once the due date is crossed, the default is complete. The statute does not recognise categories such as short delay or minor delay for exemption.

Reasonable cause relates to the cause of delay, not its duration.

Payment of tax along with interest is a statutory consequence of delayed payment. It does not erase the original default. Interest compensates the State for delay in payment, while penalty enforces compliance. Both operate independently.

Penalty under Section 58(1)(vii) is civil and regulatory in nature. It penalises failure to comply with statutory obligations, not intent to evade tax. Once default is admitted and reasonable cause is not proved, absence of mens rea does not protect the dealer.

In *State of Gujarat v. Saw Pipes Ltd.* (2023), the Supreme Court held that once the statutory conditions for penalty are satisfied, penalty follows irrespective of mens rea, and payment of tax or bona fide belief does not dilute statutory liability.

The Court further clarified that fiscal penalties are compensatory and regulatory, not criminal. Penalty under Section 58(1)(vii) is distinct .

Findings

This Tribunal holds that:

A vague and unsupported plea of technical difficulty on an online portal, without concurrent proof and without demonstration of due diligence, does not constitute “reasonable cause” for delayed deposit of admitted tax.

The delay in deposit of admitted tax is an admitted fact. The explanation furnished by the dealer is unsupported by evidence. The dealer failed to

establish existence of reasonable cause. Statutory obligation was not complied with despite sufficient opportunity. The case squarely attracts the provisions of Section 58(1)(vii) of the Act.

The penalty imposed under Section 58(1)(vii) is lawful, proportionate, and justified.

ORDER

The second appeal is dismissed. In view of the facts and circumstances discussed above, and in exercise of powers conferred under Section 58(1)(vii) of the Uttarakhand Value Added Tax Act, 2005, it is hereby ordered that. A penalty of Rs. 3,29,068/- (Rupees Three Lakh Five Thousand Four Hundred Six only) is imposed upon the dealer for delayed deposit of admitted tax for the tax period July 2013. The dealer is directed to deposit the penalty amount forthwith as per law.

s/d

(Rakesh Verma)
Member,
Commercial Tax Tribunal,
Uttarakhand

s/d-04-04-26

(Malik Mazhar Sultan)
President,
Commercial Tax Tribunal,
Uttarakhand

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दिनांक... 06/04/26
प्राप्तिय सवत्य भागिय कर अधिनियम
उत्तराखण्ड हृदवानी पीठ

Date: 04-04-26
Place: Haldwani.

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